



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,724	12/24/2003	Timothy James Crossett	11884/409401	8319
23838 7590 08/06/2008 KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005				
EXAMINER AMSDOLL, DANA				
ART UNIT 3627		PAPER NUMBER		
MAIL DATE 08/06/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/743,724

Applicant(s)

CROSSETT ET AL.

Examiner

DANA AMSDELL

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 24 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

This Office action is in response to Application # 10743724, filed 12/ 24/ 2003.

Paper # 20080728 is given for reference purposes only.

Claims 1 – 14 are pending.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 2, 4 – 9 and 11 -14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claims 1 and 8 reciting “where the accounting records may include cash call...” It has been established that subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See also MPEP § 2111.04. Further the claim language reciting “applying adjustments” fails to

particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 2, 4, 9 and 11 are rejected as they depend from claims 1 and 8.
5. The recitation of "optionally performing a correction..." in claims 5-7 and 12-14 also fails to define the scope of the claims, which is the basis of the 35 U.S.C. 112, second paragraph rejection.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4, 5, 8, 9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Griffin. (US 2002/0138387), here-in-after "Griffin".
8. Regarding claims 1 and 8, Griffin teaches an automated method and apparatus (Fig. 4), comprising, as follows:
 - (a) receiving input selecting a time period for which adjustments to accounting records of a joint venture are to be applied, where the time period may extend from a present time to a time of an inception of the venture, or be any period there between

(Fig. 3, step 601 and ¶ 0063);

(b) receiving input selecting one or more types of accounting records to which the adjustments are to be applied, where the accounting records may include cash call accounting records(Fig. 3, step. 650/652) ; and

(c) based on input received, applying adjustments to the accounting records of the joint venture (Fig. 3, steps 610/612/614/616) .

9. Regarding claims 2 and 9, Griffin teaches the automated method of claim 1 and apparatus of claim 8, with a system and an apparatus for changing equity assignments as follows, further comprising, based on input received in (b):

(i) creating reversing accounting records to reverse existing accounting records in a ledger of the joint venture according to a previous equity share assignment (Fig. 2, steps 505/507 and ¶ 0068 and Fig. 4, elm. 120).

(ii) creating in the joint venture ledger, for a new equity share assignment, accounting records with amounts corresponding to the existing accounting records reversed by (i) (Fig. 3. steps 601/610 and ¶ 0069 and Fig. 4, elm. 120) ;

(iii) creating, in partner accounts in the joint venture ledger, accounting records corresponding to the accounting records created in (i), with amounts in proportions according to the previous equity share assignment (Fig. 4, elm. 104)

(iv) creating, in the partner accounts in the joint venture ledger, accounting records corresponding to the accounting records created in (ii), with amounts in proportions according to the new equity share assignment (Fig. 4, elm. 120).

10. Regarding claims 4 and 11, being the automated method of claim 1, and the apparatus of claim 8, Griffin teaches based on input received in (b):

(vii) creating reversing of a 'performance fee (PF)' accounting records to reverse existing PF accounting records made to partner accounts in a ledger of the joint venture according to a previous equity share assignment (§ 0005, where in 'performance fee', by being defined as any 'item of profit or loss which accrues differentially as between investors', is equated to the recited "cash call"; and Fig. 2, steps 505/507 and § 0068 and Fig. 4, elm. 120);

(viii) creating 'loss carryforward', in the partner accounts of the joint venture ledger for the new equity share assignment, but recording amounts in the same proportions as in the previous equity share assignment (§ 0011, wherein 'loss carryforward' by definition is equated to the recited "cash call accounting records corresponding to the existing records reversed by (vii)"; and Fig. 3. steps 601/610 and § 0069 and Fig. 4, elm. 120.

11. Regarding claims 5 and 12, being the automated method of claim 4 and the apparatus of claim 11, Griffin further teaches the optionally performing a correction process to create accounting records indicating, in the partner accounts of the joint venture ledger for the new equity share assignment, a difference corresponding to cash calls between the previous equity share assignment the new equity share assignment (§ 0008 "Equalization Factor" (EF), and § 0025).

Claim Rejections - 35 USC § 103

12. Claims 3, 6, 7, 10, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin as applied to claims above, and further in view of Macalka et al. (US 2007/0179872), here-in-after "Macalka".

13. Regarding claims 3 and 10, Griffin teaches the limitations of claims 2 and 9, respectively. He does not however, teach specifically to the conditional limitation of an inter-company partner associated with the joint venture. Macalka does disclose the method and apparatus of adjustments in consolidation process (v) creating, in an inter-company ledger of the joint venture, accounting records corresponding to the accounting records created in (i), with amounts in proportions according to the previous equity share assignment (Fig 2a, elms. 204/206 and ¶ 0035); and

(vi) creating, in the inter-company ledger of the joint venture, accounting records corresponding to the accounting records created in (ii), with amounts in proportions according to the new equity share assignment (Fig. 2b, elm. 220/224 and ¶0035) .

One of ordinary skill in the art would find motivation to modify the teaching of Griffin to include the eventuality of an inter-company partnership, as share allocations very typically have this additional complexity and necessitate inclusion in the accounting method.

14. Regarding claims 6 and 13, Griffin teaches the automated method of claim 4 and the apparatus of claim 11, further comprising: optionally performing a correction process to create accounting records indicating the new equity share [assignment], a difference corresponding to cash calls between the previous equity share assignment the new equity share assignment (§ 0008 "Equalization Factor" (EF), and §0025); however Griffin does not teach to the inter-company ledger. Macalka does disclose this in Fig. 2b , elm. 224 and §0034).

15. Regarding claims 7 and 14, depending from 3 and 10 respectively, Macalka discloses the optionally performing a correction process comprising creating reversing accounting records to reverse the accounting records created in the inter-company ledger in (vi) (Fig. 3, elm. 310 and §0037).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pinard et al.	(US 6,397,197)
Johnson	(US 7,096,194)
Knudtzon et al.	(US 7,120,597)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANA AMSDELL whose telephone number is (571)270-5210. The examiner can normally be reached on 5/4/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANA AMSDELL/
Examiner, Art Unit 3627

8/1/2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627